

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA

Plaintiff,

v.

TOMAS HAILEMARIAM

Defendant.

CASE NO. 2:22-CR-109

JUDGE MICHAEL H. WATSON

MOTION OF THE UNITED STATES FOR A *LAFLER* HEARING

The United States, by and through undersigned counsel, hereby submits the following motion for a hearing pursuant to *Lafler v. Cooper*, 566 U.S. 156, 164 (2012), and *Missouri v. Frye*, 566 U.S. 134, 146 (2012).

MEMORANDUM IN SUPPORT

Trial in this case is currently scheduled to begin on January 8, 2024. The government now moves for a *Lafler* hearing. The United States has made efforts to resolve this case short of trial. Currently, there is an outstanding plea offer to the defendant. As of the present date, the government has been advised by counsel for the defendant that the defendant intends to proceed to trial.

The United States presumes that defense counsel communicated the nature, substance, and likely consequences of the plea offer to the defendant. Nevertheless, the Supreme Court has urged “[t]he prosecution and trial courts [to] adopt some measures to help ensure against late, frivolous, or fabricated claims after . . . a trial leading to conviction.” *Lafler*, 566 U.S. at 172 (citation omitted). Among those measures are extending a formal plea offer, reducing the plea offer to writing, and making a plea offer “part of the record . . . before a trial on the merits, all to ensure

that a defendant has been fully advised before those further proceedings commence.” *Frye*, 566 U.S. at 146.

Accordingly, the United States requests that the Court convene a hearing at which the parties can put on the record: (1) the fact that the government extended multiple plea offers to the defendant; (2) the substance of each offer; (3) that the defendant was advised of each offer and its precise terms; and (4) that the defendant has conclusively rejected the offers. *Id.* at 147 (citation omitted). In the interests of judicial economy, and to potentially avoid the time and expense of preparing for an unnecessary trial, the government requests that such a hearing be held at the Court’s earliest convenience.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served this 3rd day of October, 2023, through the Court's electronic filing system, upon counsel of record for the defendant.

s/ S. Courter Shimeall
S. COURTER SHIMEALL (0090514)
Assistant United States Attorney